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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-851

Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, and Rescission in Part; 2014/2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective Date: (Insert the publication date in the Federal Register.)

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period February 1, 2014, through January 31, 2015. We preliminarily determine that the only respondent selected for individual examination in this review, Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa), is not eligible for a separate rate and, therefore, is considered part of the PRC-wide entity.¹ We invite interested parties to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

¹ See Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China; 2014-2015 from Christian Marsh Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated November 2, 2015 (Preliminary Decision Memorandum), issued concurrently with and hereby adopted by this notice.

SUPPLEMENTARY INFORMATION

Scope of the Order

The products covered by this order are certain preserved mushrooms. The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.²

Background

On April 3, 2015, the Department published in the Federal Register, a notice of initiation of the antidumping duty administrative review of mushrooms from the PRC for the period February 1, 2014, through January 31, 2015, with respect to the 63 companies named in the review requests submitted by interested parties.³ On April 29, 2015, the Department released to all interested parties having an administrative protective order (APO) CBP data for entries of the subject merchandise during the POR. We invited interested parties to comment regarding the CBP data and respondent selection. The Department received no comments concerning these CBP data. Moreover, based on our review of the CBP data, the Department determined that only Kangfa had reviewable entries. Accordingly, on June 11, 2015, the Department issued a questionnaire to Kangfa.

² See Preliminary Decision Memorandum for a complete description of the Scope of the Order.

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, 80 FR 18202, 18207-08 (April 3, 2015) (Initiation Notice).

No Shipments Certifications

On May 1, 2015, (1) Dezhou Kaihang Agricultural Science Technology Co., Ltd., (Dezhou Kaihang), (2) Fujian Haishan Foods Co., Ltd. (Fujian Haishan), (3) Inter-Foods (Dongshan) Co., Ltd. (Inter-Foods), (4) Shandong Fengyu Edible Fungus Corporation Ltd. (Fengyu), (5) Xiamen International Trade & Industrial Co., Ltd. (XITIC), (6) Zhangzhou Gangchang Canned Foods Co., Ltd. (Gangchang) and (7) Zhangzhou Hongda Import & Export Trading Co., Ltd. (Hongda) submitted no shipment certifications.⁴ On June 3, 2015, Guangxi Jisheng Foods, Inc. (Guangxi Jisheng) did so as well. On August 20, 2015, the Department sent inquiries to U.S. Customs and Border Protection (CBP) to confirm the no shipments certifications received from the following companies: 1) the exporter/producer combination of Dezhou Kaihang/Fengyu; 2) the exporter/producer combination of Fujian Haishan/Hongda; 3) XITIC; and 4) Gangchang.⁵ On October 22, 2015, the Department sent an additional inquiry to CBP regarding the certification provided by Guangxi Jisheng.⁶ To date, the Department has received no information contrary to the no shipment claims submitted.

Based on the no-shipment certifications and our analysis of the CBP information, we preliminarily determine that Dezhou Kaihang/Fengyu, Fujian Haishan/Hongda, XITIC, Gangchang, and Guangxi Jisheng did not have any reviewable transactions during the POR. In addition, for Dezhou Kaihang/Fengyu, Fujian Haishan/Hongda, XITIC, Gangchang, and Guangxi Jisheng, the Department finds that consistent with its refinement to its assessment

⁴ The Department assigned separate “combination” rates to 1) Dezhou Kaihang/Fengyu and 2) Fujian Haishan/Hongda as the result of new shipper reviews. See Certain Preserved Mushrooms From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review 80 FR 32352, (June 8, 2015) (Dezhou Kaihang /Fengyu); see also Certain Preserved Mushrooms From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Reviews 76 FR 67146, (October 31, 2011) (Fujian Haishan/Hongda).

⁵ Inter-Foods currently does not have separate rate status, and did not have separate rate status during the POR. Therefore, the Department did not send an inquiry to CBP with regard to Inter-Foods.

⁶ To date, we have received no response from CBP related to any entries for Guangxi Jisheng. We intend to revisit our preliminary determination of no shipments for Guangxi Jisheng should any information provided by CBP warrant such reconsideration.

practice in non-market economy (NME) cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to these companies and issue appropriate instructions to CBP based on the final results of the review.⁷ If the Department continues to determine in the final results of this review that these companies have no reviewable transactions, we intend to instruct CBP to continue to collect cash deposits of estimated antidumping duties at the current rate in effect for those companies.⁸

Partial Rescission

Section 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review. The Department published the Initiation Notice on April 3, 2015.⁹

On July 2, 2015, Monterey Mushrooms withdrew its request for review of 27 companies, including (1) Fujian Tongfa Foods Group Co., Ltd. (Fujian Tongfa), (2) Mikado Food China Co., Ltd. (Mikado), (3) Xiamen Hua Min Import & Export Co., Ltd., (4) Zhangzhou Tan Co. Ltd., Fujian, China and (5) Zhangzhou Yuxing Import & Export Trading Co., Ltd. No other party has requested a review of any of the five companies indicated above. Because all review requests have been timely withdrawn, we are rescinding this review with respect to these companies. For the remaining 22 companies, there continue to be active review requests; therefore, we are not rescinding the review for those companies.

⁷ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65694-95 (October 24, 2011).

⁸ We note that the current rate in effect for the Guangxi Jisheng is the rate applicable to the PRC-wide entity.

⁹ See Initiation Notice at 18207-08.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, please see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

On July 6, 2015, Kangfa withdrew from participation in this review prior to responding to the Department's questionnaire issued on June 10, 2015.¹⁰ We therefore determine that Kangfa is ineligible for a separate rate and is part of the PRC-wide entity.¹¹

Additionally, the Department preliminarily determines that the remaining 51 companies did not demonstrate their eligibility for separate rate status in this review because they have not filed either separate rate applications or separate rate certifications.¹² As a result, the Department is preliminarily treating these 51 companies as part of the PRC-wide entity.

¹⁰ See July 6, 2015 letter from Kangfa to Secretary of Commerce: Re: Certain Preserved Mushrooms from China Withdrawal from Administrative Review (Kangfa Withdrawal Letter).

¹¹ See Preliminary Decision Memorandum; Initiation Notice, 80 FR at 18203 (providing that mandatory respondents will not be eligible for separate rate status "unless they respond to all parts of the questionnaire as mandatory respondents.").

¹² These 51 exporters are 1) Agrogentra & Co., Ltd., 2) Ayecue (Liaocheng) Foodstuff Co., Ltd, 3) Blue Field (Sichuan) Food Industrial Co., Ltd., 4) Casia Global Logistics Co., Ltd., 5) Changzhou Chen Rong- Da Carpet Co.,

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.¹³ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the PRC-wide entity is not under review and therefore its rate is not subject to change. The rate previously established for the PRC-wide entity in this proceeding is 308.33 percent.¹⁴

Disclosure and Public Comment

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary results within five days of the date of publication of the notice of preliminary results in the Federal Register, in accordance with 19 CFR 351.224(b). However, because the Department has preliminarily determined that Kangfa is ineligible for a separate rate, there are no calculations to disclose. Interested parties may submit case briefs no later than 30

Ltd., 6) China National Cereals, Oils & Foodstuffs Import & Export Corp., 7) China Processed Food Import & Export Co., 8) DHL ISC (Hong Kong) Limited, 9) Dujiangyan Xingda Foodstuff Co., Ltd., 10) Fujian Blue Lake Foods Co., Ltd., 11) Fujian Golden Banyan Foodstuffs Industrial Co., Ltd., 12) Fujian Pinghe Baofeng Canned Foods, 13) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd., 14) Fujian Zishan Group Co., Ltd., 15) Guangxi Eastwing Trading Co., Ltd., 16) Guangxi Hengyang Industrial & Commercial Dev., Ltd., 17) Guangxi Hengyong Industrial & Commercial Dev. Ltd., 18) Inter-Foods (Dongshan) Co., Ltd., 19) Jiangxi Cereal Oils Foodstuffs, 20) Joy Foods (Zhangzhou) Co., Ltd., 21) Kangfa, 22) Longhai Guangfa Food Co., Ltd., 23) Primera Harvest (Xiangfan) Co., Ltd., 24) Shandong Jiufa Edible Fungus Corporation, Ltd., 25) Shandong Xinfa Agricultural Science Corporation Ltd., 26) Shandong Yinfeng Rare Fungus Corporation, Ltd., 27) Shenzhen Syntrans International Logistics Co., Ltd., 28) Sun Wave Trading Co., Ltd., 29) Sunrise Food Industry & Commerce, 30) Shouguang Sunrise Industry & Commerce Co., Ltd., 31) Thuy Duong Transport And Trading Service JSC , 32) Tianjin Fulida Supply Co., Ltd., 33) Xiamen Aukking Imp. & Exp. Co., Ltd., 34) Xiamen Carre Food Co., Ltd., 35) Xiamen Choice Harvest Imp., 36) Xiamen Greenland Import & Export Co., Ltd., 37) Xiamen Gulong Import & Export Co., Ltd., 38) Xiamen Huamin Imp. & Exp. Co., Ltd., 39) Xiamen Jiahua Import & Export Trading Co., Ltd., 40) Xiamen Longhuai Import & Export Co., Ltd., 41) Xiamen Longhuai Imp. & Exp. Co., Ltd., 42) Xiamen Longstar Lighting Co., Ltd., 43) Xiamen Sungiven Import & Export Co., Ltd., 44) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd., 45) Zhangzhou Long Mountain Foods Co., Ltd., 46) Zhangzhou Longhai Minhui Industry & Trade Co., Ltd., 47) Zhangzhou Tan Co., Ltd., 48) Zhangzhou Tongfa Foods Industry Co., Ltd., 49) Zhangzhou Yuxing Imp. & Exp. Trading Co., Ltd., 50) Zhejiang Iceman Food Co., Ltd., and 51) Zhejiang Iceman Group Co., Ltd.

¹³ See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65970 (November 4, 2013).

¹⁴ See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014; and Partial Rescission of Review, 80 FR 32355, 32357 (June 8, 2015).

days after the date of publication of the preliminary results.¹⁵ Rebuttals to case briefs may be filed no later than five days after the deadline for filing case briefs and all rebuttal comments must be limited to comments raised in the case briefs.¹⁶ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁷ Case and rebuttal briefs must be filed electronically via ACCESS.¹⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.¹⁹ Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Unless extended, the Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any briefs, within 120 days

¹⁵ See 19 CFR 351.309(c)(1)(ii).

¹⁶ See 19 CFR 351.309(d).

¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸ See 19 CFR 351.303(b).

¹⁹ See 19 CFR 351.310(c).

after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²⁰ The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. We intend to instruct CBP to liquidate relevant entries from the PRC-wide entity (including Kangfa) at the current rate for the PRC-wide entity (i.e., 308.33 percent). For the companies identified above that were found to have made no shipments during the POR, we intend to instruct CBP to liquidate any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) at the PRC-wide rate.²¹

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (i.e., 308.33 percent); and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC

²⁰ See 19 CFR 351.212(b).

²¹ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 30, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

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